UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,895	07/05/2001	Illah Nourbakhsh	20191.707	3588

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EXAMINER
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ART UNIT	PAPER NUMBER
3625	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	09/899,895	NOURBAKHSH ET AL.
	Examiner	**Art Unit**	
	Kalyan K. Deshpande	3625	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>17 April 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

(a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

(b)☐ They raise the issue of new matter (see NOTE below);

(c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Jeffrey A. Smith/
Supervisory Patent Examiner, Art Unit 3625

Continuation of 11. does NOT place the application in condition for allowance because:

Applicants' further define aruments made in the after non-final response. Examiner acknowledges that Applicants' aruments may clarify the record as to the difference between linear optimization and the present invention, however, the recited limitations in the claims fail to clearly make this distinction. As such, Examiner maintains the previous rejections.

In response to Applicants' argument Stuart fails to teach "calculating an effect of adding the another agent as if the another agent is the only agent that will be added and iteratively adding additional agents from the at least one profile to the proposed schedule and iteratively calculating effects of adding the additional agents while considering each additional agent as if that additional agent is the only agent that will be added", Examiner respectfully disagrees. Stuart explicitly teaches "calculating an effect of adding the next agent as if the another agent is the only agent that will be added" (see Stuart column 15 lines 44-67, column 16 lines 1-19, and column 17 lines 14-30; where the user has the ability to adjust the number of agents and teams. The agent costs are determined for each period of time based on expected uncertain loads.) and "iteratively adding additional other agents from the agent profiles to the proposed schedule and iteratively calculating the effects of adding the additional other agents until the available work for every agent in the plurality of agent profiles has been distributed" (see Stuart column 15 lines 44-67, column 16 lines 1-19, column 17 lines 14-30, and column 19 lines 40-67; where the user has the ability to adjust the number of agents and teams. The agent costs are determined for each period of time based on expected uncertain loads.). As discussed above, Applicants' specifically argue that the present invention does not implore the optimization algorithm as described by Stuart, however, Examiner maintains that the methodology of the present invention, as recited in the claims, is the same as taught by Stuart. Stuart explicitly teaches generating an optimal schedule based on system information and agent information using an stochastic model programming (see Stuart column 15 lines 44-67, column 16 lines 1-19, column 17 lines 14-30, and column 19 lines 40-67). The Stuart algorithm involves independently adding agents to determine whether demand will be satisfied with a set of constraints incorporated. Examiner fails to see a difference between the methodology of Stuart and the present invention. Applicants further argue that the methodology of the present invention implores a "false assumption" of calculating the effects "as if the another agent is the only agent/employee that will be added" and then violates the false assumption (see Remarks page 16). Examiner fails to see how this technique is different from the simulation analysis of Stuart, where variables are adjusted based on requirements, demand, and capacity in order to determine the optimal schedule. Additionally, Examiner is confused as to Applicants argument where the false assumption is being made and the violated, as it would render the same result as if the false assumption was never made. Furthermore, even if the false assumption were to be made and then violated, the constraint conditions that the another agent added would be adjusted for the simulation for the next agent added the same as in a standard optimization algorithm.

In response to Applicants' argument Stuart fails to teach "iteratively calculating effects of adding the additional employees while considering the addition of each additional employee to be independent of adding any other employees" as per claim 30, Examiner respectfully disagrees. Applicants note that claim 30 is rejected for the same reason that claims 1 and 16 and their dependant claims were rejected and assert that claim 30 is distinguished from these claims. Specifically, Applicants argue that the language of "iteratively calculating effects of adding the additional employees while considering the addition of each additional employee to be independent of adding any other employee" is not the same as "calculating an effect of adding the another agent as if the another agent is the only agent that will be added and iteratively adding additional agents from the at least one profile to the proposed schedule and iteratively calculating effects of adding the additional agents while considering each additional agent as if that additional agent is the only agent that will be added". Examiner submits that the functionality recited in both limitations is the same. Both limitation require that an iterative calculation of effects be done as if the another agent is the only agent (i.e. independent of other agents) being added. Further evidencing that these limitations recite the same functionality is the fact that Applicants have made identical arguments of patentability of these limitations (see Remarks page 17). If Applicants persist in this argument, Examiner respectfully requests further clarification as to how claim 30 is distinguished in functionality from claims 1 and claim 16 and their dependant claims. Applicants further make arguments of patentability for claim 30 that are the same as the arguments for claims 1 and 16. Examiner directs Applicants to the discussion of the rejections and arguments above with regard to these arguments..

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